

REMARKS/ARGUMENTS

Claims 20-24 have been canceled as being directed to a non-elected invention. Applicant respectfully preserves the right to file one or more divisional applications to cover the subject matter of these claims.

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner stated that the specification failed to provide basis for the claimed subject matter of "said volume of said passage is also large enough to then additionally absorb the effective downward shaking of the cup." Claims 14-19 were also rejected under Section 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully traverses the objection to the specification and the rejection under Section 112. Page 5, lines 1 and 2 of the specification reads as follows: "Preferably, the volume of the passage should be somewhat larger so as to absorb the effect of downward shaking of the cup." Accordingly, the specification provides clear antecedent basis for the claimed subject matter. Therefore, the objection to the specification should be withdrawn and the rejection under Section 112, first paragraph should be withdrawn.

Claim 16 was rejected under Section 112, second paragraph, as being indefinite. Claim 16 has been amended to delete the phrase "such as an elastomer". Therefore, this rejection should be withdrawn. It is noted that new claim 25 has been added to further claim the present invention wherein new claim 25 depends from claim 16 and further recites that the resiliently compressible material is an elastomer.

Claims 14-19 were rejected under Section 103 as being unpatentable over Antoniou in view of Hoyle et al.

Antoniou discloses a cup that includes a dispensing spout having a valve and a gas permeable membrane. The Examiner argues that it would be obvious to replace the valve and gas permeable membrane assembly with a "detachable member" as taught in Hoyle. Applicant traverses this objection for several reasons. Firstly, Hoyle does not relate to a "detachable member" rather, it relates to a length of irrigation tubing. There would be no reason for a person designing a spill proof cup to consult documents in the field of irrigation tubing. Thus, Hoyle is not analogous art.

Secondly, the Examiner states that Hoyle teaches a member having a plurality of ridges to form a helical passage. However, the applicant respectfully disagrees with the Examiner's interpretation of Hoyle. The flow depicted in figure 2 cannot indicate a helical passage because the arrows showing flow are in opposite directions. If the passage were helical, the flow would be in the same direction. Furthermore, in column 3, line 30 onwards, Hoyle discusses a number of embodiments for conduits, all of which "form a reversing passageway". It can be seen from figures 5 to 9 that a "reversing passageway" includes a section in which the flow is reversed. The abstract of Hoyle also discusses "oppositely directed passageways". This is quite different from a helical passageway as defined in claim 1. In a helical passageway, the liquid flows down a continuous passage which does not contain "oppositely directed" sections or a point at which the flow reverses.

Thirdly, Hoyle makes no mention of the ability of the passageways formed by ridges to prevent spillage. Hoyle instead teaches continuous flow through the passages to allow its use as irrigation tubing. There is thus nothing to suggest that Hoyle could be used to prevent spillage, or to replace a valve assembly.

Fourthly, the sections in Hoyle through which flow is reversed contain tight bends which will introduce turbulence and as a result restrict fluid flow. This could be advantageous in irrigation tubing. However, in the context of the present invention their presence will make it difficult for the cup to dispense liquid when desired. By using a helical passageway the present invention minimizes tight curves (which can impede fluid flow when fluid flow is required) while also allowing the benefit of prevention from spillage (which as mentioned above is not mentioned or taught by Hoyle in any way). Therefore, even if the skilled person were for some reason to combine Hoyle with Antoniou, the resulting combination would be very difficult to dispense liquid from when desired because the turbulence caused by the tight bends taught in Hoyle would restrict fluid flow.

Therefore, the rejection under Section 103 should be withdrawn.

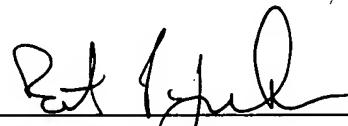
*Application No. 10/049,701*

Applicant has made a sincere effort to place the application in a condition for allowance; therefore, such favorable action is earnestly solicited. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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Date: 9/6/05